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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,083	09/11/2003	F. Mark Ferguson	SHP026.6	5916

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EXAMINER

RODRIGUEZ, CRIS LOIREN

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,083	Applicant(s) FERGUSON ET AL.	
	Examiner Cris L. Rodriguez	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 12-16, 23, 26, 31, 33, 34, 36-38 and 45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, 17-22, 25, 27-30, 32, 35, 39-44 and 46-48 is/are rejected.
- 7) ☒ Claim(s) 9 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/5/04, 11/18/03, 2/20/04, 4/2/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of figures 26-29, claims 1-11, 17-22, 24-25, 27-30, 32, 35, 39-44, and 46-48 in the reply filed on July 3, 2006 is acknowledged. The traversal is on the ground(s) that all the species should be combined as one specie since they are closely related that combining them would have not been a burden for the examiner. This is not found persuasive because the reason for insisting upon election of one species, are the facts relied upon for the conclusion that there are claims restricted respectively to two or more patentably different species that are disclosed in the application. The breath of a single disclosed species does not necessitate the examination of the other disclosed species and their concomitant features. The examination of other species would include a determination of the patentability of the species additional features in combination with the subcombination common to all species, which determination amounts to an examination of multiple inventions.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 12-16, 23, 26, 31, 33, 34, 36-38, and 45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 3, 2006.

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Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "1" in figures 17-20 and 26-29.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 10, 11, 17-22, 25, 27-30, 32, 39-44, and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Sircom et al (US 5,328,482).

Sircom discloses a needle shield (figs. 35-40, 53, and 53) including a shield 5, a binding member 101 with binding surfaces at 103 and a retainer at 109. The binding member including at least one drag inducing member at 110 that creates a drag force with the needle and creates friction with the needle, and a hub retainer being configured to engage a catheter hub at 119 (fig 40). With respect to claim 17, the housing defining a blocking member would be 106 that also act as a bearing.

Allowable Subject Matter

6. Claims 9 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 form.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is 571-272-4964. The examiner can normally be reached on 7:30 am - 4:00 pm:

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 25, 2006


Cris L. Rodriguez
Primary Examiner
Art Unit 3763